

ENTERED

July 02, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****HARRIS COUNTY WATER CONTROL §
AND IMPROVEMENT DISTRICT NO. 89, §****Plaintiff, §****v. §****CIVIL ACTION NO. H-19-1755****PHILADELPHIA INDEMNITY §
INSURANCE COMPANY, *et al.*, §****Defendants. §****FINAL JUDGMENT**

For the reasons stated in the Court's Memorandum and Opinion of June 1, 2020 [Dkt. 47], wherein, Harris County Water Control and Improvement District No. 89's (the "District") Motion for Summary Judgment [Dkt. 31] was granted in part and denied in part and Philadelphia Indemnity Insurance Company's ("Philadelphia") Motion for Summary Judgment [Dkt. 32] was granted in part and denied in part. The Court found that the 2015 Agreement between bond principal, Defendant E&M Enterprises, Inc., and the District differed from and was therefore superseded by the 2016 Agreement between the parties; the Court further found that because Philadelphia, as surety, did not assent to the precise terms of the 2016 Agreement, it is not liable for performance bond obligations related to that contract. Accordingly, the District's claims against Philadelphia related to performance bond obligations under the 2016 Agreement are dismissed, with prejudice. The District takes nothing from Philadelphia. The Court will enter judgment as to Defendant E&M Enterprises, Inc. in a separate order.

This is a final judgment as to all of the District's claims against Philadelphia

SIGNED on July 2, 2020, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Lee H. Rosenthal
Chief United States District Judge